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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,628	11/13/2001	Ronald L. Ream	112703-203	4209

29156 7590 12/22/2004

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EXAMINER

HOWARD, SHARON LEE

ART UNIT	PAPER NUMBER
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1615

DATE MAILED: 12/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/990,628

Applicant(s)

REAM ET AL.

Examiner

Sharon L. Howard

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 8/22/03.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

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Applicant's arguments filed 8/22/03 have been fully considered and they are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new grounds of rejection is made over Reed et al. (U.S. Patent No. 5,665,406) in view of Khan (U.S. Patent No. 5,656,296).

DETAILED ACTION

Claim Rejections - 35 USC § 103

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reed et al. (U.S. Patent No. 5,665,406) in view of Khan et al. (U.S. Patent No. 5,656,296).

Reed teaches a pellet chewing gum which is coated with one more coats of a polyol such as maltitol, lactitol and erythritol. Reed teaches that the chewing gum includes a gum center and an outer coating. Reed teaches that the gum center

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constitutes from about 35 to about 90 weight percent of the chewing gum product. The gum center which is sugarless comprises xylitol, maltitol and/or sorbitol. The outer coating contains from about 50 to about 100 weight percent of two polyols. See abstract and column 5, lines 5-25. Reed also teaches that the coating may also contain from about 0.05 to about 0.3 weight percent of artificial sweeteners such as aspartame, acesulfame-K, saccharin and sucralose. See column 7, lines 52-55 and column 8, lines 1-6. The gum base contains from about 10 to about 50% by weight of the chewing gum center. See column 8, lines 50-59. The reference clearly shows a chewing gum pellet which is coated with a polyol, having a sugarless gum center.

Reed does not teach the particular medicament.

However, Khan teaches drug delivery systems containing a core which comprises a medicament, including a waxy material and a coating layer over the core. See column 2, lines 46-51. Khan teaches medicaments such as analgesics, anti-inflammatory agents, cardiovascular preparations, decongestants and vitamins and minerals. See column 3, lines 24-51. Khan teaches that the coating layer of the drug delivery system may also contain sweetening agents and active agents. See column 7, lines 1-6.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the particular medicament taught by Khan in the Reed reference, for the purpose of delivering medicaments to the outer layer.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon L. Howard whose telephone number is (571) 272-0596. The examiner can normally be reached on 9:00am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sharon Howard
December 17, 2004



THURMAN K. PAGE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600